

REMARKS

Claims 1 and 12 have been amended, and claims 15-36 have been withdrawn. Claims 37-38 have been added. Accordingly, claims 1-13 and 37-38 are now pending in this application.

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

I. RESTRICTION REQUIREMENT

Applicants again assert that the examiner has failed to satisfy his burden with respect to dividing the claims of Groups I and II into separate applications. According to the examiner, the “Restriction Requirement . . . indicated that the inventions recognized divergent subject matter and that a different field of search would be required based upon the structurally distinct products recited and the various methods of use comprising distinct method steps.” Office Action, pg. 2, 2nd ¶. This assertion is factually erroneous, however.

As a matter of fact, the examiner provides no evidence that the inventions encompassed by the claims of Groups I and II are distinct. Furthermore, the examiner has failed to prove that examination would be seriously burdensome by showing either a separate classification of the inventions, a separate status in the art when the inventions are classifiable together or the necessity of a different field search. MPEP § 808.2. Accordingly, applicants renew their request that the restriction be withdrawn.

II. REJECTIONS UNDER 35 U.S.C. § 112 ¶2

The examiner rejects claim 12 under 35 U.S.C. §112, ¶2, for alleged indefiniteness. Applicants believe the amendments entered herein obviate the rejection and, therefore, request that the rejection be withdrawn.

III. REJECTIONS UNDER 35 U.S.C. § 102

The examiner rejects claims 1, 7 and 8 under 35 U.S.C. §102(e) as allegedly being anticipated by Schulman (WO 02/12448) and Nilsson (WO 01/85096). Applicants respectfully traverse the rejection.

Neither Schulman nor Nilsson are considered prior art under 35 U.S.C. §102(e). This subsection deals exclusively with (1) patent applications published under 35 U.S.C. §122(b) and (2) granted U.S. patents. As the cited documents do not belong to either of these categories, they are not considered prior art under 35 U.S.C. §102(e). Accordingly, the rejection should be withdrawn.

IV. REJECTIONS UNDER 35 U.S.C. § 103

The examiner rejects claims 3-6, 9-12 under 35 U.S.C. §103(a) for allegedly being unpatentable over Schulman or Nilsson in view of ATCC Catalog Nos: TIB-64; CRL-2034; CRL-2036; CRL-2037; TIB-152; CCL-213; CRL-1593.2; CCL-240; CRL-2258; and CRL-2392. The examiner also rejects claim 13 under 35 U.S.C. §103(a) for allegedly being unpatentable over Schulman or Nilsson in view of Longeley (US 6,339,100). Applicants respectfully traverse the rejection.

Neither of the primary references, *i.e.* Schulman and Nilsson, is considered prior art under 35 U.S.C. §102(e). Accordingly, the rejection should be withdrawn.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

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